

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare –Khammam District- Revision petition filed u/s 6 of APSALTR, 1959 by Sri Verpula Rangaiah S/O Ramaswamy and Smt Bollam Komaramma W/O Papaiah R/O Keshavapuram (V) Palavancha (M) under Sec 6 of the A.P.S.A.L.T.R, 1959 against the Orders of the Agent to Government , Bhadrachalam in C.M.A No:35/2001 dated:28-10-2001 – Dismissed-Orders-Issued.

G.O Ms No: 125

Dated:30-06-2008.

Read the following:

1. From Sri A.Rajashekhar Reddy, Counsel for the petitioner , Revision Petition
Dated: 19-02-2002.
2. Govt Memo No: 2650/LTR2/2002 Dated: 13-05-2002.
3. From the Collector, Khammam District Lr.Rc No: F2/CMA35/2001
Dated 24-07-2007.
4. Govt Memo No:2650/LTR2/2002 Dated: 21-08-07, 03-09-07, 6-11-07 &
18-03-2008.

ORDER:

In the reference first read above Sri Verpula Rangaiah S/O Ramaswamy and Smt Bollam Komaramma W/O Papaiah R/O Keshavapuram (V) Palavancha (M) Khammam District have filed Revision petition before the Government against the Orders of Agent to Government Bhadrachalam in C.M.A No: 35/2001 dated: 28-10-2001 in respect of lands situated in Sy.No: 62/71/79 to an extent of Acres 6.00 in Somulagudem (V) Palavancha (M) of Khammam District. The grounds of the petitioner among others are as under:

1. The land was purchased by father-in-law of petitioner No: 1 and father of petitioner No: 2 from one Mutyala Kotaiah S/O Narsaiah on 02-01-1963 much before the Regulation 1/70 came into force.
2. Since then , father-in-law /father of Appellants No: 1 and 2 and subsequently the appellants are in possession and enjoyment of the land paying land revenue to the Government . The Revenue authorities also issued pahanies in their favour.
3. The LTR case was suo-motu initiated by Special Deputy Collector (T.W) Paloncha on the report of Special Deputy Tahsildar (TW) after a period of 30 years from the date of purchase of land by petitioner i.e 2.1.1963.
4. The appellate authority unnecessarily without any jurisdiction gone into question of validity of sale on the grounds of not duly stamped and not registered.
5. Both the authorities should have seen that the petitioner filed pahanies for the years 1968-69 and 1969-70 and also Land Revenue receipts and without verifying the same came to the conclusion that the transfer is after the Act I of 1970 came into force.
6. The petitioners and unofficial respondents are non-tribals and sale between them took place on 2-1-1963 and hence not void as per Act I of 1970.

2. The Brief history of the case is that Sri Verpula Rangaiah and Smt Bollam Komaramma are in possession of the land to an extent of Acres 6.00 in Survey No: 6/71/79 situated at Somulagudem, Palavoncha Mandal, and Khammam District. The said property was purchased by Ramanarsaiah who is the fathers-in-law of the 1st petitioner and father of the 2nd petitioner. The said Ramanarsaiah purchased the land from one Mutyala Kotaiah S/O Narsaiah through an agreement of sale dated: 2-01-1963. The Special Deputy Collector (T.W) Palavancha in his LTR case No:208/93/PVC Dt: 24-10-1998 had concluded that Sri Verpula Rangaiah (Petitioner) has deposed that they purchased the suit land from Sri Mutyala Narsaiah on 02-01-1963 to an extent of Acres 6.00 through a sada sale deed and was in possession since then paying land Revenue to the Government. Sri Verpula Rangaiah failed to produce the pahani extract for the year 1968-69 and 1969-70 to prove their possession over the suit land during the crucial period. Hence the Special Deputy Collector (T.W) Palvancha held that the transfer of immovable property belonging to Non-tribal petitioner to another non-tribal respondent (petitioner herein) took place after Regulation

1/70 came into force and Ordered ejectment of the Revision petitioner or whoever is in possession of the scheduled immovable property and to take into Government custody by the Mandal Revenue Officer , Palavancha . Aggrieved by the said Orders of the Special Deputy Collector (T.W) Palavancha, Sri Verpula Rangaiah filed an appeal before the Agent to Government Khammam District. The Agent to Government , Khammam District observed that the sada sale agreement which was filed by Verpula Rangaiah said to be executed on 01-01-1963 by Muthyala Kotaiah S/O Narsaiah to Ch. Rama Narsaiah in respect of Acres 6.23 gts land in survey No: 23 situated at Somulgudem (V) of Palavancha (M) was written on an ordinary white paper and that the agreement is not duly stamped and registered U/S 17 B of Registration Act and hence cannot be admitted as an evidence in the light of the Judgement of the Hon'ble High Court of A.P in CRP No: 1087/96 dated : 10-08-98 in Bangaru Rama Tulasamma vs Yada Mastan Reddy. As per the pahani record of Somulagudem (v) for the years 1968-69, 1970-71 , 1971-72 , 1972-73 , 1973-74 and 1975-76 the land stands patta in the name of Muthyala Narsaiah . For all the above years the name of Muthyala Narsaiah was recorded as pattedar and cultivator. Neither the names of the appellant nor the names of father of appellant 2 find place either in the pattedar column or in the cultivator column. Hence father/father-in-law of appellant No: 1 & 2 were never in possession of the suit schedule land before the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1 of 1959, r/w Regulation 1 of 1970 came into effect on 3-2-1970. LR receipt produced for the year 1969-70 did not contain any official seal or attestation of any authority and not accepted. The Agent to Government, Khammam finally upheld the Orders passed by the Special Deputy Collector(T.W) Palvancha in LTR Case No:208/93/PVC Dated: 4-10-1998 and directed the Mandal Revenue Officer , Palavancha to take necessary action to assign the land to eligible tribals as per rules in force and dismissed the appeal vide C.M.A No:35/1999 dated: 28-10-2001. Aggrieved by the order of the Agent to Government, Khammam District the petitioners filed the present Revision Petition.

3. In the reference 2nd read above the Collector, Khammam District was requested to furnish parawise remarks and case records relating to the revision petition and the same were furnished vide reference 3rd read above. After examination of the parawise remarks and case records , notices were sent to the concerned to attend the hearing of the revision petition on 31-08-2007, 17-09-2007, 20-11-2007 and finally on 27-03-2008 vide reference 4th read above. Both petitioners and their counsel were absent on all hearing dates despite notices issued.

4. Government after perusal of material evidence on record and grounds urged in the revision petition , found that as per the pahanies of Somulagudem (v) , the land under dispute admeasuring Acres 6.20 in Survey No: 62/72, Sri Mutyala Narsaiah was recorded as pattedar and cultivator for the years 1968-69 to 1975-76 and in the year 1997-98 his wife Smt.Mutyala Nagamma w/o Narsaiah was pattedar while petitioners were in occupant's column. This goes to show that the non-tribal revision petitioners came into possession of suit land in the year 1997-98 i.e much later to regulation 1/70 came into force with effect from 3-2-1970. The Sale agreement is an unregistered one and brought into service in order to circumvent the tribal protective regulation 1/70. In an unreported decision of the Division Bench of A.P High Court in WA No: 899/97, dated:20-08-1997, it was held that once genuineness of the alleged agreement for sale is doubted, entire transaction becomes void. Hence the ordinary sale deed said to have been executed on 2-1-1963 between the non-tribal vendor and non-tribal vendee and the LR receipt produced for the crucial period (with out any official seal or attestation of authority) are clearly found to be a fabricated ones and invented to misguide the officials and circumvent LTR proceedings. It is well settled Law that, right title and interest of the Vendor gets extinguished only by way of executing a deed of conveyance duly registered under the Registration Act. Hence, they cannot be admitted as primary or substantive evidence. This will become secondary or corroborative evidence if any other primary proof exists. The contention of the petitioners that the appellate authority has no jurisdiction to question the validity of the sale agreement is baseless when it was clearly established that they came into occupation of the land in the year 1997-98 and the Sada sale agreement dated: 02-1-1963 was invented to evade action under LTR. If they really purchased the land on 2-1-1963, nothing prevented them to get the same registered before the commencement of LTR Act and/or get the transaction entered into in the basic revenue records during the same period. According to Rule 7(1) of A.P.S.A.L.T.Rules, 1969, " Where the Agent, the Agency Divisional Officer, or the Officer referred to in Sub-rule 3 receives an

application from any one interested, or information in writing by a public servant or has otherwise reason to believe that a transfer of immovable property has been made in contravention of Sub-section 3, he shall give notice to any person in possession of the property claiming under the transfer. Hence, the Special Deputy Tahsildar (TW), who is an authorized officer under the administrative control of Special Deputy Collector (TW) is competent to enquire and register LTR violations before Special Deputy Collector (TW) at any time. Therefore, the contention that the Special Deputy Tahsildar (TW) initiated suo-motu action after 30 years does not hold water.

5. After careful examination of the case records of petitioner, Government find no reason to interfere with the orders of the Lower Court and the Revision Petition is dismissed accordingly duly upholding the orders of Agent to Government, Khammam District in CMA No: 35/2001, dated: 24-10-1998.

6. The Collector, Khammam District /Additional Agent to Government and project officer, I.T.D.A., Bhadrachalam are requested to take necessary action accordingly in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**V.NAGI REDDY,
PRL.SECRETARY TO GOVERNMENT**

To

The Collector, Khammam District.

(with RPAD of the following records)

Agent to Government CMA No: 35/2001 containing pages (150).

The Additional Agent to Government & Project Officer, I.T.D.A

Bhadrachalam, Khammam District.

The Special Deputy Collector(TW) Bhadrachlam, Khammam District.

Sri A.Rajashekhar Reddy, Advocate, Plot No: 105, Saraswathi Nagar,
Saidabad, Hyderabad.

Sri Verpula Rangaiah s/o Ramaswamy R/O Keshavapuram (V),
Palavancha(M), Khammam District.

Smt Bollam Komaramma w/o Papaiah, R/O Keshavapuram (V),
Palavancha(M), Khammam District.

Sri Mutya Rajaiah s/o Kotaiah R/O Somulagudem(v),
Palavancha(M), Khammam District.

//FORWARDED BY ORDER//

SECTION OFFICER

